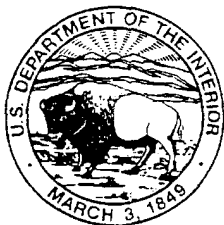


APPENDIX H

BIOLOGICAL RESOURCES PERMITS



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Sacramento Fish and Wildlife Office

2800 Cottage Way, Room W-2605

Sacramento, California 95825-1846

IN REPLY REFER TO:

1-1-03-F-0024

APR 29 2003

Mr. Tom Cavanaugh
Chief, Sacramento Valley Office
U.S. Army Engineer District, Sacramento
Corps of Engineers
1325 J Street
Sacramento, California 95814-2922

Subject: Review of the Sunset-Athens Connector Road (Corps File), Placer County, California, for Inclusion with the Vernal Pool Crustaceans Programmatic Consultation (Service File 1-1-96-F-0001)

Dear Mr. Cavanaugh:

This is in response to your November 6, 2002, letter requesting reinitiation of formal consultation with the U.S. Fish and Wildlife Service (Service) on the proposed Sunset-Athens Connector Road project, Placer County, California. The applicant for the project is the United Auburn Indian Community (UAIC). The U.S. Fish and Wildlife Service (Service) has reviewed the biological information submitted by your office describing the effects of the proposed project on the endangered vernal pool tadpole shrimp (*Lepidurus packardii*) and the threatened vernal pool fairy shrimp (*Branchinecta lynchi*). This response is in accordance with section 7 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*)(Act). This document also serves as a formal conference report on effects of the permit issuance on proposed critical habitat for the vernal pool tadpole shrimp and the vernal pool fairy shrimp. Critical habitat for these species was proposed on September 24, 2002 (67 **Federal Register** 59884). Should this critical habitat proposal become final while the U.S. Army Corps of Engineers Sacramento District (Corps) retains discretionary authority over any permit that may be issued for this project, it can be converted to a biological opinion at your request.

The findings and recommendations in this consultation are based on: (1) prior section 7 consultation with the Corps on the UAIC Rancheria Gaming and Entertainment Facility Project (Service file no. 1-1-00-F-0062); (2) a letter from the Corps requesting formal consultation on the Sunset Boulevard-Athens Avenue project; (3) the Pre-Construction Notification, from ECORP Consulting, Inc., the applicant's environmental consultants, dated September 23, 2002; (4) additional information on vernal pool shrimp habitat present on the project site, from ECORP,

dated January 10, 2003; (5) site visits by Betty Warne of the Service and ECORP, on April 9 and 13, 2003; (6) a brief meeting on April 9, 2003, between Service staff, ECORP, and representatives from UAIC; (7) a letter from ECORP to the Service containing a revised acreage of vernal pool fairy shrimp habitat that would be effected by the proposed project, dated April 23, 2003; (8) various meetings, electronic messages, and telephone conversations between the Service, ECORP, and/or David Zweig, from Analytical Environmental Services, a consultant for UAIC; and (9) other sources of information. A complete administrative record is on file at the Sacramento Fish and Wildlife Office (SFWO).

Previous biological opinions (Service files 1-1-98-F-0132 and 1-1-00-F-0062), dated October 10, 1998 and February 13, 2001, addressed impacts of the proposed construction of a 200,000 square-foot gaming facility and 3,500 space, on-site parking lot, on the threatened vernal pool fairy shrimp and the endangered vernal pool tadpole shrimp. An amendment (1-1-99-I-0661) to the biological opinion, dated February 12, 1999, addressed an additional 8 acres of land that is proposed for development along with the establishment of a 130-foot buffer on the western boundary of the project site.

Project history

November 6, 2002. The Service receives a letter from the Corps requesting initiation of formal consultation on the proposed Sunset Boulevard-Athens Avenue Connector project.

December 6, 2002. The Service sends a letter to the Corps describing the additional information needed in order to complete the biological opinion. Specifically, the Service requests information on whether vernal pool habitat may be present adjacent to the proposed project corridor that may be affected by the project but not shown on maps. The letter stated that formal consultation with the Corps would not begin until the information had been received by the Service.

January 13, 2003. ECORP, the applicant's environmental consultant, sends a portion of the requested additional information to the Service but states that some areas containing wetlands that may be affected by the project have not been delineated and no information is available. The map provided by ECORP indicates that the proposed road would sever some vernal swales and therefore may adversely affect an unknown amount of vernal pool fairy shrimp habitat.

April 9 and 13, 2003. Service conducts visits to the proposed project site with staff from ECORP to identify additional areas of listed shrimp habitat that may be affected by the project. Service staff evaluates the additional wetlands for suitability as potential shrimp habitat and ECORP staff maps the suitable areas using a Global Positioning System for inclusion in the project maps.

April 24, 2003. ECORP provides the revised acreage of direct and indirect effects on the vernal pool fairy shrimp in a letter to the Service dated April 23, 2003.

April 29, 2003. ECORP provides an additional avoidance and minimization measure for

protection of remaining vernal pool fairy shrimp habitat in an electronic message to the Service dated April 29, 2003.

Status of the Species in the Action Area

The Sunset-Athens project site provides potential vernal pool fairy shrimp habitat in the form of vernal pools and swales. The site contains a variety of vernal pool shrimp habitat ranging from relatively unaltered vernal pool habitat and associated upland grasslands providing the watershed for the vernal pools to disturbed seasonal wetlands along railroad tracks. The vernal pools and swales, many of which are hydrologically-linked, fill with rainwater runoff at the appropriate time and for the appropriate duration to support the vernal pool fairy shrimp. The vernal pool fairy shrimp has been observed on Orchard Creek Conservation Bank adjacent to the project site on the north side of Athens Avenue. Construction of the proposed Sunset Boulevard connector and widening of Athens Avenue will (1) result in direct fill of vernal pools and swales that provide potential habitat, (2) will sever some swales that convey water to vernal pools, and (3) will likely alter the hydrology of all vernal pool habitat within at least 250 feet of the edge of the proposed construction. These changes may degrade the vernal pool shrimp habitat and reduce its ability to support the listed shrimp. Surveys to determine presence of the listed shrimp on the project site have not been conducted. However, the Service believes that the vernal pool fairy shrimp is reasonably certain to occur within the action area because of the project site's proximity to known records of the shrimp and the presence of on-site shrimp habitat. Therefore, the proposed project may adversely affect the species through direct and indirect adverse effects to the habitat.

Vernal Pool Fairy Shrimp Proposed Critical Habitat

Critical habitat for the vernal pool fairy shrimp was proposed on September 24, 2002 (67 FR 59884). In determining which areas to designate as critical habitat, the Service considers those physical and biological features (primary constituent elements) that are essential to the conservation of the species, and that may require special management considerations and protections (50 CFR 424.14).

The Service is required to list the known primary constituent elements together with the critical habitat description. Such physical and biological features include, but are not limited to, space for individual and population growth and normal behavior; food, water, air, light, minerals, or other nutritional or physiological requirements; cover or shelter; sites for breeding, reproduction or rearing (or development) of offspring; and habitats that are protected from disturbance or are representative of the historic geographical and ecological distributions of a species.

The Sunset-Athens project is located in the Western Placer County Unit. This unit was proposed as critical habitat for vernal pool fairy shrimp because it contains numerous occurrences of the species living within northern hardpan and northern volcanic mudflow vernal pool complexes (Service 2002). The Western Placer County Unit contains 70 percent of the remaining vernal pool habitats in Placer County.

The general location of this unit is in western Placer County immediately north of the Sacramento County line, north of the cities of Roseville and Rocklin. The unit occurs mostly west of State Highway 65. The northern boundary is located just north of the city of Lincoln. Other sensitive species present in this unit include Bogg's Lake hedge-hyssop, Red Bluff dwarf rush, western spadefoot toad (*Scaphiopus hammondi*), legumere, California linderiella (*Linderiella occidentalis*), Ahart's paronychia, and dwarf downingia. The Sunset-Athens project is located along the southeast edge of this proposed critical habitat unit.

Project Description

The proposed project is located near Industrial Avenue, in western Placer County, California. Orchard Creek Conservation Bank is located to the north of Athens Avenue and adjacent to the proposed construction. The proposed project area lies within sections 3, 4, 5, 8, and 9 of Township 11 North, Range 6 East, and within sections 32 and 33 of Township 12 North, Range 6 East on the 'Roseville, California,' United States Geological Survey quadrangle map. The proposed linear project includes grading and paving for construction of a westward extension of Sunset Boulevard, a connector road from Sunset Boulevard north to Athens Avenue, and the widening of Athens Avenue and a portion of Industrial Avenue. From Sunset Boulevard, the right-of-way (ROW) continues west for approximately 2,500 feet in a straight line. This segment of the proposed road would include an approximately 455-foot long bridge structure to cross an unnamed tributary to Pleasant Grove Creek which flows through the project site. The bridge would be engineered to use piles to avoid fill in the tributary creek and associated marsh. The ROW continues northward for approximately 1,000 feet then curves to the northwest and proceeds in a straight line for approximately 3,600 feet. At that point the proposed road goes north for approximately 3,000 feet to Athens Road. Culverts would be constructed at three locations along the proposed connector road to allow flow of surface water in existing drainages and vernal swales.

Proposed Minimization Measures

To protect remaining wetlands and waters in the project area from construction-related impacts, the following mitigation measures will also be implemented:

1. Wetlands not proposed for fill will be protected during adjacent construction activities by a 50-foot setback delineated by high-visibility fencing. Where the construction zone must encroach within 50 feet of remaining wetlands, the setback/fence will be defined by the outer edge of the construction zone.
2. Prior to any groundbreaking, worker awareness training will be implemented. Construction personnel and all those associated with alteration of the landscape will be educated prior to any disturbance regarding the status of vernal pool and wetland habitats and the species dependent on these waters. Sensitive areas at the project site will be identified and the importance of avoiding encroachment on these areas will be conveyed.

3. Construction grading and staging activities, borrow and disposal sites, and construction personnel parking will be kept as far as possible from wetland habitats.
4. If construction occurs during the winter rainy period (generally October to May), silt fencing will be used in concert with the high visibility fencing in order to protect the remaining wetlands from construction-induced siltation.
5. Following construction, exposed slopes within 50 feet of remaining wetlands will be hydroseeded to reestablish ground cover.
6. A qualified biological monitor, approved by the Service, will be present during pipeline construction in the vicinity of wetland areas.

Based on the information provided by the applicant's consultants and the Corps, the Service has determined that the proposed Sunset-Athens Connector Road project, is suitable for appendage to the February 28, 1996, *Programmatic Formal Endangered Species Act Consultation on Issuance of 404 Permits for Projects with Relatively Small Effects on Listed Vernal Pool Crustaceans Within the Jurisdiction of the Sacramento Field Office, California* (Programmatic Opinion)(File Number 1-1-96-F-0001). Compensation for projects appended to the Programmatic Opinion involves the exclusive use of vernal pool preservation and creation banks or Service-approved non-bank sites. The Service has determined that by using banks or non-bank sites protected and managed in perpetuity, implemented compensation will lead to the development of protected habitat areas distributed across the landscape that local communities can use as foundations for future habitat conservation plans.

The Service is tracking losses of habitat permitted under the Programmatic Opinion in each County under the jurisdiction of the SFWO and within the ranges of the listed vernal pool crustaceans covered by the Programmatic Opinion. The Service reevaluates the effectiveness of the Programmatic Opinion at least every six (6) months to ensure continued implementation will not result in unacceptable impacts to the ecosystem upon which the listed species depend.

In accordance with the Programmatic Consultation, projects appended to that biological opinion will be compensated using a combination of habitat preservation and creation. The compensation measures identified in the Programmatic Consultation include the following:

1. **Preservation component.** For every acre of habitat directly or indirectly impacted, at least two vernal pool credits will be dedicated within a Service-approved ecosystem preservation bank, or, based on Service evaluation of site-specific conservation values, three acres of vernal pool habitat may be preserved on the project site or another non-bank site as approved by the Service.
2. **Creation component.** For every acre of habitat directly impacted, at least one vernal pool creation credit will be dedicated within a Service-approved vernal pool creation bank, or, based on Service evaluation of site-specific conservation values, two acres of

vernal pool habitat will be created and monitored on the project site or another non-bank site as approved by the Service.

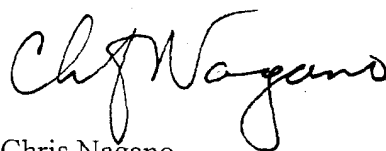
3. Vernal pool habitat and associated upland habitat utilized as on-site compensation will be protected from adverse impacts and managed in perpetuity or until the Corps, the applicant, and the Service agree on a process to exchange such areas for credits within a Service-approved conservation banking system. Off-site conservation at a Service-approved non-bank location will be protected and managed in perpetuity through a Service-approved conservation easement, Service-approved management plan, and an endowment fund of sufficient size to manage the site in perpetuity in accordance with the management plan.

The proposed project will result in direct effects to 0.842 acre and indirect effects to 4.274 acres of vernal pools. The agreed-upon compensation responsibilities of the applicant are as follows:

1. Prior to ground breaking, at least 10.232 acres of vernal pool preservation credits will be dedicated within a Service-approved ecosystem preservation bank, or, based upon Service evaluation of site-specific values, or at least 15.348 acres of vernal pools will be preserved on the project site or another non-bank site approved by the Service, provided with a minimum 250-foot buffer, unless otherwise approved, and preserved in perpetuity.
2. Prior to ground breaking, at least 0.842 acre of vernal pool creation credit will be dedicated within a Service-approved vernal pool creation bank, or based upon Service evaluation of site-specific values, at least 1.684 acres of vernal habitat will be constructed and monitored on the project site or another non-bank site approved by the Service, provided with a minimum 250-foot buffer (unless otherwise approved), and preserved in perpetuity.
3. If credits are not available at a Service-approved bank, the applicant may deposit funds sufficient to purchase these credits into the Vernal Pool Conservation Fund for the preservation and creation or restoration of vernal pool habitat. This Fund is held by the Center for Natural Lands Management.

If you have any questions regarding this response, please contact Betty Warne or Justin Ly, Sacramento Valley Branch, of my staff at (916) 414-6645.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Nagano", written in a cursive style.

Chris Nagano
Chief, Endangered Species Division

Mr. Tom Cavanaugh

7

cc:

CDFG, Region 2, Rancho Cordova, California (Attn: Terry Roscoe)

United Auburn Indian Community (Attn: Jessica Tavares, David Zweig)

BIA, California State Office, Sacramento California (Attn: William Allan)

Wildlands, Inc. (Attn: Greg Sutter)

ECORP, Roseville, CA (Attn: Hal Freeman)



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
U.S. ARMY ENGINEER DISTRICT, SACRAMENTO
CORPS OF ENGINEERS
1325 J STREET
SACRAMENTO, CALIFORNIA 95814-2922

June 27, 2003

Regulatory Branch (200200648)

David Zweig
United Auburn Indian Community
2021 N Street, Suite 200
Sacramento, California 95814

Dear Mr. Zweig:

I am responding to your request for a Department of the Army permit for the Sunset Boulevard-Athens Avenue Connector project. This project is located in Sections 4, 5, 8, 9, and 33, Township 11 North, Range 6 East, MDB&M, Placer County, California.

Based on the information you have provided, the proposed discharge of dredged or fill material in waters tributary to Pleasant Grove and Orchard Creeks and adjacent wetlands is authorized by Nationwide Permit Number 14. However, the State of California has denied certification for this nationwide permit. Therefore, use of the nationwide permit is denied without prejudice until water quality certification is obtained from the State Regional Water Quality Control Board at the address below. Work may then proceed subject to the terms and conditions of certification. The work must also meet the terms and conditions listed on the enclosed nationwide permit information sheets and the following special conditions:

1. To mitigate for the loss of 0.001 acre of vernal pool, 0.006 acre of seasonal wetland, 0.004 acre of intermittent drainages, 0.053 acre of creek and indirect effects to 0.030 acre of vernal pools, 0.191 acre of seasonal wetlands, 0.497 acre of seasonal marsh, 0.004 acre of intermittent drainage, and 0.111 acre of creek, you shall purchase 0.03 creation credits of vernal pool habitat, 0.21 credits of seasonal wetland habitat, and 0.76 credits of seasonal marsh habitat at a Corps approved wetland mitigation bank. This mitigation acreage is in addition to any already purchased or required by the terms of any other authorization, including the enclosed U.S. Fish and Wildlife Service Biological Opinion, or Letter of Concurrence from the National Marine Fisheries Service. The selected mitigation bank shall include the area of the permitted project within its service area. Evidence of this purchase shall be provided to this office prior to proceeding with any activity otherwise authorized by this permit.

2. This Corps permit does not authorize you to take an endangered species, in particular the vernal pool fairy shrimp (*Branchinecta lynchi*), vernal pool tadpole shrimp (*Lepidurus packardii*), or designated critical habitat. In order to legally take a listed species, you must have separate authorization under the Endangered Species Act (e.g., an Endangered Species Act Section 10 permit, or a Biological Opinion under Endangered Species Act Section 7, with "incidental take" provisions with which you must comply). The enclosed Fish and Wildlife Service Biological Opinion (Number 1-1-03-F-0024, dated April 29, 2003), contains mandatory terms and conditions to implement the reasonable and prudent measures that are associated with "incidental take" that is also specified in the Biological Opinion. Your authorization under this Corps permit is conditional upon your compliance with all of the mandatory terms and conditions associated with incidental take of the attached Biological Opinion, which terms and conditions are incorporated by reference in this permit. Failure to comply with the terms and conditions associated with incidental take of the Biological Opinion, where a take of the listed species occurs, would constitute an unauthorized take, and it would also constitute non-compliance with your Corps permit. The Fish and Wildlife Service is the appropriate authority to determine compliance with the terms and conditions of its Biological Opinion, and with the Endangered Species Act. The permittee must comply with all conditions of this Biological Opinion, including those ascribed to the Corps.

3. To insure your project complies with the Federal Endangered Species Act and the Magnuson-Stevens Fishery and Conservation Act, you must implement all of the mitigating measures and Essential Fish Habitat Conservation Recommendations identified in the enclosed National Marine Fisheries Service letter of concurrence (SWR-03-SA-8884:FKF dated May 21, 2003), including those ascribed to the Corps therein. If you are unable to implement any of these measures, you must immediately notify this office and the National Marine Fisheries Service so we may consult as appropriate, prior to initiating the work, in accordance with Federal law.

4. You shall design and construct all crossings of waters of the United States to retain a natural substrate, and to accommodate all reasonably foreseeable wildlife passage and expected high flows. Specific detailed plans for these crossings shall be submitted to and approved by the Corps of Engineers prior to implementation.

Upon completion of the work authorized by this permit, the permittee must sign and return the enclosed compliance certification as required by General Condition 14.

This verification is valid for a period of two years from the date of this letter or until the nationwide permit is modified or expires, whichever comes first. This nationwide permit is currently scheduled to expire on March 18, 2007.

Please refer to identification number 200200648 in any future correspondence concerning this project. If you have any questions, please write to Mr. William Ness at the letterhead address, or email William.W.Ness@usace.army.mil, or telephone 916-557-5268.

Sincerely,



Tom Cavanaugh
Chief, Sacramento Valley Office

Enclosures

Copies furnished without enclosures:

Hal Freeman, ECORP Consulting, Inc., 2260 Douglas Boulevard, Suite 160, Roseville, California 95661

George Day, Storm Water and Water Quality Certification Unit, Central Valley Regional Water Quality Control Board, 3443 Routier Road, Suite A, Sacramento, California 95827-3003

Terry Roscoe, California Department of Fish and Game Region 2, 1701 Nimbus Drive, Rancho Cordova, California 95670-4599

Jan Knight, U.S. Fish and Wildlife Service, Endangered Species Branch, 2800 Cottage Way, Suite W2605, Sacramento, California 95825-3901

Rodney R. McInnis, Acting Regional Administrator, National Marine Fisheries Service, 650 Capitol Mall, Suite 8-300, Sacramento, California 95814-4706



Winston H. Hickox
Secretary for
Environmental
Protection

California Regional Water Quality Control Board Central Valley Region

Robert Schneider, Chair



Gray Davis
Governor

Sacramento Main Office

Internet Address: <http://www.swrcb.ca.gov/rwqcb5>
3443 Routier Road, Suite A, Sacramento, California 95827-3003
Phone (916) 255-3000 • FAX (916) 255-3015

16 April 2003

Mr. Dave Zweig
United Auburn Indian Community c/o
Analytical Environmental Services
2021 N Street, Suite 200
Sacramento, CA 95814

RECEIVED

DATE 1/17/03

***ACTION ON REQUEST FOR CLEAN WATER ACT §401 WATER QUALITY CERTIFICATION
FOR DISCHARGE OF DREDGED AND/OR FILL MATERIALS FOR THE UNITED AUBURN
INDIAN COMMUNITY, SUNSET BOULEVARD/ATHENS AVENUE CONNECTOR
(WDID#5A31CR00033), PLACER COUNTY***

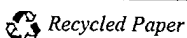
ACTION:

1. ☐ Order for Standard Certification
2. ☒ Order for Technically-conditioned Certification
3. ☐ Order for Denial of Certification

WATER QUALITY CERTIFICATION STANDARD CONDITIONS:

1. This certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to §13330 of the California Water Code and §3867 of Title 23 of the California Code of Regulations (23 CCR).
2. This certification action is not intended and shall not be construed to apply to any discharge from any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to 23 CCR subsection 3855(b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
3. The validity of any non-denial certification action shall be conditioned upon total payment of the full fee required under 23 CCR §3833, unless otherwise stated in writing by the certifying agency.

California Environmental Protection Agency



ADDITIONAL CONDITIONS (for Certification Action 2):

In addition to the three standard conditions, the applicant shall satisfy the following:

1. United Auburn Indian Community shall notify the Board in writing of the start of any in-water activities.
2. Except for activities permitted by the U.S. Army Corps under §404 of the Clean Water Act, soil, silt, or other organic materials shall not be placed where such materials could pass into surface water or surface water drainage courses.
3. The discharge of petroleum products or other excavated materials to surface waters is prohibited.
4. Activities shall not cause turbidity increases in surface waters to exceed:
 - (a) where natural turbidity is between 0 and 5 Nephelometric Turbidity Units (NTUs), increases shall not exceed 1 NTU;
 - (b) where natural turbidity is between 5 and 50 NTUs, increases shall not exceed 20 percent;
 - (c) where natural turbidity is between 50 and 100 NTUs, increase shall not exceed 10 NTUs;
 - (d) where natural turbidity is greater than 100 NTUs, increases shall not exceed 10 percent.

Except that these limits will be eased during in-water working periods to allow a turbidity increase of 15 NTU over background turbidity as measured in surface waters 300 feet downstream from the working area. In determining compliance with the above limits, appropriate averaging periods may be applied provided that beneficial uses will be fully protected.

5. Activities shall not cause settleable matter to exceed 0.1 ml/l in surface waters as measured in surface waters 300 feet downstream from the project.
6. Activities shall not cause visible oil, grease, or foam in the work area or downstream.
7. All areas disturbed by project activities shall be protected from washout or erosion.
8. In the event that project activities result in the deposition of soil materials or creation of a visible plume in surface waters, the following monitoring shall be conducted immediately upstream and 300 feet downstream of the work site and the results reported to this office within two weeks:

<i>Parameter</i>	<i>Unit</i>	<i>Type of Sample</i>	<i>Frequency of Sample</i>
Turbidity	NTU	Grab	Every 4 hours during in water work
Settleable Material	ml/l	Grab	Same as above.

9. United Auburn Indian Community shall notify the Board immediately if the above criteria for turbidity, settleable matter, oil/grease, or foam are exceeded.

10. United Auburn Indian Community shall notify the Board immediately of any spill of petroleum products or other organic or earthen materials.
11. United Auburn Indian Community shall comply with all Department of Fish and Game 1600 requirements for the project.

REGIONAL WATER QUALITY CONTROL BOARD CONTACT PERSON:

Patrick G. Gillum, Environmental Specialist III,
3443 Routier Road, Suite A
Sacramento, California 95827-3015
(916) 255-3397
gillump@rb5s.swrcb.ca.gov

WATER QUALITY CERTIFICATION:

I hereby issue an order certifying that any discharge from the United Auburn Indian Community, Sunset Boulevard/Athens Avenue Connector Project (WDID #5A31CR00033) will comply with the applicable provisions of §301 ("Effluent Limitations"), §302 ("Water Quality Related Effluent Limitations"), §303 ("Water Quality Standards and Implementation Plans"), §306 ("National Standards of Performance"), and §307 ("Toxic and Pretreatment Effluent Standards") of the Clean Water Act.



THOMAS R. PINKOS
Executive Officer

Enclosure: Project Information

cc: U.S. Army Corps of Engineers, Sacramento
Timothy Vendlinski, Wetlands Section Chief (WTR-8), U.S. Environmental Protection
Agency, Region 9, San Francisco
U.S. Fish & Wildlife Service, Sacramento
Oscar Balaguer, Certification Unit, State Water Resources Control Board, Sacramento
Cynthia Herzog, ECORP Consulting, Inc., Roseville

PROJECT INFORMATION

Application Date: 13 January 2003

Applicant: Mr. Dave Zweig
United Auburn Indian Community c/o
Analytical Environmental Services 2021 N Street, Suite 200
Sacramento, CA 95814

Applicant Representatives: Ms. Cynthia Herzog
ECORP Consulting, Inc.
2260 Douglas Boulevard, Suite 160
Roseville, CA 95661

Project Name: Sunset Boulevard/Athens Avenue Connector

Application Number: WDID#5A31CR00033

Type of Project: Construction of an extension of Sunset Boulevard, and the widening of Athens Avenue in Roseville.

Project Location: The project is within Section 5, Township 11 North, Range 6 East, MDB&M. Latitude: 38°49'45" and Longitude: 121°19'30"

County: Placer County

Receiving Water(s) (hydrologic unit): Unnamed tributary to Pleasant Grove Creek, Pleasant Grove Creek, Sacramento Hydrologic Basin, Valley-American Hydrologic Unit #519.22, Pleasant Grove HSA

Water Body Type: Streambed, Wetland

Designated Beneficial Uses: The Basin Plan for the Central Valley Regional Board has designated beneficial uses for surface and ground waters within the region. Beneficial uses that could be impacted by the project include: Municipal and Domestic Water Supply (MUN); Agricultural Supply (AGR); Industrial Supply (IND); Hydropower Generation (POW); Groundwater Recharge, Water Contact Recreation (REC-1); Non-contact Water Recreation (REC-2); Warm Freshwater Habitat (WARM); Cold Freshwater Habitat (COLD); and Wildlife Habitat (WILD).

Project Description (purpose/goal): The Proposed linear project includes grading and paving for construction of a westward extension of Sunset Boulevard, a connector road from Sunset Boulevard north to Athens Avenue, and the widening of Athens Avenue and a portion of Industrial Avenue. This segment of the proposed road will include an approximately 455-foot ling bridge structure to cross an unnamed tributary to Pleasant Grove Creek. The bridge will be engineered to use piles, so as to avoid fill in the creek and marsh.

Preliminary Water Quality Concerns: The construction activities may impact surface waters with increased turbidity and settleable matter.

Proposed Mitigation to Address Concerns: United Auburn Indian Community will implement Best Management Practices (BMPs) to control sedimentation and erosion. All temporary affected areas will be restored to pre-construction contours and conditions upon completion of construction activities.

Fill/Excavation Area: Approximately 460 cubic yards of material will be used to fill in approximately 0.2850-acres (permanent impact).

Dredge Volume: <0.0 cubic yards

U.S. Army Corps of Engineers Permit Number: United Auburn Indian Community has submitted a Pre-Construction Notification for Nationwide Permits Numbers 14 & 33 to the Corps on 23 September 2002.

Federal Public Notice: N/A

Department of Fish & Game Streambed Alteration Agreement: United Auburn Indian Community applied for a Streambed Alteration Agreement on 12 December 2002.

Possible Listed Species: No Federal or State listed species will be affected within the project vicinity.

Status of CEQA Compliance: The Sunset Boulevard – Athens Avenue Connector project was included in the Sunset Industrial Area Plan Environmental Impact Report (SCH #1997107614). The Placer County Board of Supervisors adopted the EIR resolution on 24 June 1997.

Compensatory Mitigation: The wetlands to be directly impacted include vernal pools (0.0508-acre) and seasonal wetlands (0.1334-acre), portions of a drainage swale (0.0354-acre), freshwater emergent marsh (0.0015-acre). Waters to be impacted include part of an unnamed tributary of Pleasant Grove Creek (0.0529-acre) and intermittent drainage (0.0110-acre). Together, these jurisdictional features total 0.2850-acre. Total proposed mitigation is 0.2850-acre of off-site habitat creation and 1.0018-acre of off-site preservation.

Application Fee Provided: A \$1000 fee deposit was submitted on 2 December 2002 as required by 23 CCR § 3833b(2)(A).

Notification No. R2-2002-566

AGREEMENT REGARDING PROPOSED STREAM ALTERATION

THIS AGREEMENT, entered into between the State of California, Department of Fish and Game, hereinafter called the Department, and STATION DEVELOPMENT, LLC, A California limited liability company hereafter called the Operator, is as follows:

WHEREAS, pursuant to California Fish and Game Code, Section 1601/03, the Operator, on 12-18-02, notified the Department that he intends to substantially divert or obstruct the natural flow of, or substantially change the bed, channel, or bank of, or use material from the streambed of, the following water: unnamed tributary to Pleasant Grove Creek, in the County of Placer, State of California, Section 3, Township 11, Range 6E, USGS Map- Roseville.

WHEREAS, the Department, represented by Nicole Bowser, has made an inspection of subject area on January 28, 2003. Whereas, the Department has determined that such operations may substantially adversely affect existing fish and wildlife resources including: Warm water fish species, amphibians, and other aquatic and terrestrial plant and wildlife species.

THEREFORE, the Department hereby proposes measures to protect fish and wildlife during the Operator's work. The Operator hereby agrees to accept the following recommendations as part of his work:

This agreement pertains to the construction of a connecting road from the dead end of Sunset Blvd. to Athens Avenue and the widening of Athens Avenue. The Sunset- Athens connector road is going to be located due west of the existing Sunset Blvd., and west of its intersection with Cincinnati Avenue. From Sunset Blvd., the road will continue west for approximately 2,500 feet in a straight line. The segment of the proposed road will include an approximately 455-foot long bridge structure to cross wetlands and an unnamed tributary to Pleasant Grove Creek. Prior to the bridge there will be a small section of the tributary that will be disconnected (approximately .053 acre /2,305 sq. ft.) due to the location of the road. A re-connection of the tributary will occur just north of the disconnection (approximately 0.54 Acre/ 2,355 sq. ft.). The re-connection is shown on "Exhibit 3 Thunder Valley Phase 2 off-sites". The new re-connected area will be vegetated with native plantings.

Stream Zone Defined: The stream zone is that portion of the stream channel that restricts lateral movement of water. The stream zone is delineated at the top of the bank or the outer edge of any riparian vegetation, whichever is more landward.

1. The time limit for completing the work within the stream zone of the unnamed tributaries shall be restricted to periods of low stream flow and dry weather and shall be confined to the period of April 15 to October 15. Construction activities shall be timed with awareness of precipitation forecasts and likely increases in stream flow. Prior to all storm events, construction activities shall cease and shall not commence until all reasonable erosion control measures have been implemented. Weather forecasts shall be documented upon request by the Department. Re-vegetation work is not confined to this time period.

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2. Stream grade, contour and meander will be maintained in the re-connection. A re-vegetation plan shall also be provided to the department and approved before construction begins. The re-vegetation plan shall include all new areas of streambank.
3. Mitigation will include credits bought at a 5:1 ratio at an appropriate mitigation bank. The total area impacted at the creek is $0.0529 \times 5 = 0.2645$. The total area impacted due to the widening of Athens Road is $0.0639 \times 5 = 0.3195$. All impacted acreage shall be categorized as "riparian". Work within the stream zone shall not begin until the revegetation plan has been approved by the Department and the "bill of sale" from the purchase of mitigation credits has been received by the Department.
4. Equipment shall not be operated in wetted areas (including but not limited to ponded, flowing, or wetland areas) without the prior written approval of the Department. Wet crossings for equipment are not authorized. A temporary culvert shall be installed in the low flow channel to accommodate use of access/haul roads whenever the low flow channel is flowing and crossing is necessary. The culvert shall be of adequate size to handle a 10-year storm event and placed at or below the stream channel grade. Fill will be from clean on-site gravel.
5. Before construction begins a qualified biologist will conduct a survey for nesting birds within three days prior to the vegetation removal, and ensure no nesting birds shall be impacted by the project. These surveys shall include the areas within 200 feet of the edge of the proposed impact area(s). If active nests are found, a minimum 50-foot (200 feet for raptors) fence barrier shall be erected around the nest site. No habitat removal or any other work shall occur within the fenced nest zone even if the nest continues active beyond July 15, until the young have fledged, are no longer being fed by the parents, have left the nest, and will no longer be impacted by the project. Vegetation clearing MAY occur other than as described above IF Department-approved avoidance measures are in place to ensure no impacts to nesting birds may occur AND the Operator receives confirmation from the Department that the vegetation removal at a specific site is allowed on a specified date. The Operator shall submit the mapped survey results to the Department for review and approval prior to vegetation removal to ensure full avoidance measures are in place.
6. The perimeter of the work site shall be adequately flagged to prevent damage to adjacent riparian habitat.
7. If the Operator finds more time is needed to complete the authorized activity, the Operator shall submit a written request for a work period time extension to the Department. The work period extension request shall provide the following information: 1) Describe the extent of work already completed; 2) Provide specific detail of the activities that remain to be completed within the stream zone; and 3) Detail the actual time required to complete each of the remaining activities within the stream zone. The work period extension request should consider the effects of increased stream conditions, rain delays, increased erosion control measures, limited access due to saturated soil conditions, and limited growth of erosion control grasses due to cool weather. Time extensions are issued at the discretion of the Department. The Department will review the written request to work beyond the established

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work period. The Department will have ten calendar days to approve the proposed work period extension. The Department reserves the right to require additional measures designed to protect natural resources. The Operator is required to obtain authorization from all other local, state and federal agencies with regulatory authority over this project.

8. The notification, together with all supporting documents (project descriptions and drawings) submitted with the notification, are hereby incorporated into this agreement to describe the location and features of the proposed project. Operator agrees that all work shall be done as described in the notification and supporting documents, incorporating all project modifications, wildlife resource protection features, mitigative measures, and provisions as described in this agreement. The Operator further agrees to notify the Department of any modifications made to the project plans submitted to the Department. At the discretion of the Department, minor plan modifications may require an amendment to this agreement. At the discretion of the Department, if substantial modifications are made to the original plans, this agreement becomes void and the Operator must submit a new application. Failure to notify the Department of changes to the original plans or subsequent amendments to this agreement may result in the Department suspending or canceling this agreement. The Operator must then submit a new notification.
9. The Operator shall notify the Department where conflicts exist between the provisions of this agreement and those imposed by other regulatory agencies. Unless otherwise notified, the Operator shall comply to the provision that offers the greatest protection to water quality, species of special concern and/or critical habitat.
10. A copy of this agreement shall be provided to the Contractor(s) who works within the stream zone of this project. A copy of this agreement must be available upon request at the work site. The Contractor(s) shall sign this agreement prior to working within the stream zone. If the Contractor is not available at the time this agreement is executed by the Operator, the Operator shall submit, anytime prior to project commencement, a copy of the signature page of this agreement bearing the Contractor's signature to the Department. Fax or mail the signature page to Warden Nicole Bowser fax 530-878-0725. Mailing address, Department of Fish and Game, 1701 Nimbus Road, Suite A, Rancho Cordova, CA 95670. The Contractor(s) or a designated crew supervisor(s) shall be on site the entire time a work crew is working near the stream zone. The supervisor(s) shall be completely familiar with the terms and conditions of this agreement and shall ensure compliance with all terms and conditions.
11. The project site has been identified as an area that is potentially inhabited by threatened or endangered species. This agreement does not allow for the take, or incidental take of any State or Federal listed threatened or endangered listed species. The Operator is required, as prescribed in the state or federal endangered species acts, to consult with the appropriate agency prior to commencement of the project. Any unauthorized take of such listed species may result in prosecution and cancellation of this agreement.
12. Beaver dams and other obstructions blocking flow in the stream near the work site may be cleared with the use of hand tools only. Beavers can be discouraged from building a new dam

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at the same location by placing a length of 12 inch diameter plastic culvert which has been perforated with several holes at the dam site. The perforated pipe is placed at stream grade at the dam site and in line with the stream flow. The beaver will try to plug the opening of the pipe but cannot plug all the small holes along the length of the pipe. Water will continue to pass downstream and will not cause ponding as before. The beaver will eventually get discouraged and will seek a new location for its dam.

13. The Operator shall notify the Department within two working days of beginning work within the stream zone of unnamed tributary to Pleasant Grove Creek. In addition, the Operator/Contractor shall notify the Department within two working days of the completion of work within the stream zone on this project. Notification shall be a FAX transmittal to fax number 530-878-0725. Refer to Notification Number R2-2002- 566 when notifying the Department.
14. When work in a flowing stream is unavoidable, the entire stream flow shall be diverted around or through the work area during the excavation and/or construction operations. Stream flow shall be diverted using gravity flow through temporary culverts/pipe's or pumped around the work site with the use of hoses. When any dam or other artificial obstruction is being constructed, maintained, or placed in operation, sufficient water shall at all times be allowed to pass downstream to maintain aquatic life below the dam pursuant to Fish and Game Code section 5937. Any temporary dam or other artificial obstruction constructed shall only be built from materials such as sandbags or clean gravel which will cause little or no siltation. No other diversion method shall be used without prior authorization by the Department. If another diversion method is preferred, the operator must submit a plan detailing the desired diversion method. Authorization of any other diversion method shall be at the discretion of the Department.
15. Precautions to minimize turbidity/siltation shall be taken into account during project planning and implementation. This may require the placement of silt fencing, coir logs, coir rolls, straw bale dikes, or other siltation barriers so that silt and/or other deleterious materials are not allowed to pass to downstream reaches. Passage of sediment beyond the sediment barrier(s) is prohibited. If any sediment barrier fails to retain sediment, corrective measures shall be taken. The sediment barrier(s) shall be maintained in good operating condition throughout the construction period and the following rainy season. Maintenance includes, but is not limited to, removal of accumulated silt and/or replacement of damaged silt fencing, coir logs, coir rolls, and/or straw bale dikes. The Operator is responsible for the removal of non-biodegradable silt barriers (such as plastic silt fencing) after the disturbed areas have been stabilized with erosion control vegetation (usually after the first growing season).
16. Upon Department determination that turbidity/siltation levels resulting from project related activities constitute a threat to aquatic life, activities associated with the turbidity/siltation, shall be halted until effective Department approved control devices are installed, or abatement procedures are initiated. The Department may take enforcement action if appropriate turbidity and siltation control measures are not deployed.
17. Raw cement/concrete or washings thereof, asphalt, paint or other coating material, oil or

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other petroleum products, or any other substances which could be hazardous to aquatic life, resulting from project related activities, shall be prevented from contaminating the soil and/or entering the waters of the state. Any of these materials, placed within or where they may enter a stream or lake, by Operator or any party working under contract, or with the permission of the Operator, shall be removed immediately. The Department shall be notified immediately by the Operator of any spills and shall be consulted regarding clean-up procedures.

18. During construction, the contractor shall not dump any litter or construction debris within the stream zone. All construction debris and associated materials shall be removed from the work site upon completion of this project.
19. All exposed/disturbed areas and access points within the stream zone left barren of vegetation as a result of the construction activities shall be restored to its natural state by seeding with a blend native and non-native erosion control grass seeds. Revegetation shall be completed as soon as possible after construction activities in those areas cease. Seeded areas shall be covered with broadcast straw, anchored jute netting, coconut fiber blanket or similar erosion control blanket. Supplemental watering may be required to establish plant growth.
20. All provisions of this Agreement remain in force throughout the term of the Agreement. Any provisions of the Agreement may be amended or the Agreement may be terminated at any time provided such amendment and/or termination is agreed to in writing by both parties.
21. This agreement is not valid and work may not begin until the agreement is signed by a representative of the Department of Fish & Game. Stream alteration work authorized by this agreement expires on December 31, 2003. This agreement shall remain in effect for that time necessary to satisfy all required mitigation and monitoring measures.
22. Requests for Renewals, Extensions, or Amendments must be submitted in writing to the Department prior to expiration of the agreement, conclusion of the work period, or commencement of changed work design, respectively. Renewals, Extensions and Amendments are issued at the discretion of the Department. Processing fees may be assessed.
23. The Department reserves the right to suspend and/or revoke this agreement if the Department determines that the circumstances warrant. The circumstances that could require a reevaluation include, but are not limited to, the following: A) Failure to comply with the terms/conditions of this agreement. B) The information provided by the operator in support of the agreement/notification is determined by the Department to be incomplete, or inaccurate. C) When new information becomes available to the Department representative(s) that was not known when preparing the original terms/conditions of this agreement. D) The project as described in the notification/agreement has changed, or conditions affecting fish and wildlife resources change.
24. If, in the opinion of the Department, conditions arise or change in such a manner as to be considered deleterious to aquatic life, operations shall cease until corrective measures are taken.

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25. This agreement does not constitute or imply the approval or endorsement of a project, or of specific project features, by the Department, beyond the Department's limited scope of responsibility, established by Code Sections 1600 et seq.
26. It is understood that the Department enters into this agreement for purposes of establishing protective features for fish and wildlife, in the event that a project is implemented. The decision to proceed with the project is the sole responsibility of Operator, and is not required by this agreement. It is agreed that all liability and/or incurred costs related to or arising out of Operator's project and the fish and wildlife protective conditions of this agreement, remain the sole responsibility of Operator.

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SIGNATURE PAGE

The Operator, as designated by the signature on this agreement, shall be responsible for the execution of all elements of this agreement. A copy of this agreement must be provided to contractor and subcontractors and must be in their possession at the work site.

Failure to comply with the provisions of this agreement and with other pertinent Code Sections, including but not limited to Fish and Game Code Sections 5650, 5652 and 5948, may result in prosecution.

Nothing in this agreement authorizes the Operator to trespass on any land or property, nor does it relieve the Operator of responsibility for compliance with applicable federal, state, or local laws or ordinances.

THIS AGREEMENT IS NOT INTENDED AS AN APPROVAL OF A PROJECT OR OF SPECIFIC PROJECT FEATURES BY THE DEPARTMENT OF FISH AND GAME. INDEPENDENT REVIEW AND RECOMMENDATIONS WILL BE PROVIDED BY THE DEPARTMENT AS APPROPRIATE ON THOSE PROJECTS WHERE LOCAL, STATE, OR FEDERAL PERMITS OR OTHER ENVIRONMENTAL REPORTS ARE REQUIRED.

This agreement becomes effective on receipt of signed agreement by all parties. This agreement terminates on December 31, 2003, for project construction activities only. This agreement shall remain in effect for that time necessary to satisfy the terms/conditions of the agreement including mitigation measures.

This agreement is not valid and work may not begin until the agreement is signed by a representative of the Department of Fish & Game.

Operator: Scott M Nielson Scott M Nielson Date April 4, 2003
Print & Sign Name

Title: Secretary

Organization: Station Development, LLC

Contractor: Robin B. Creger Date 4/24/03
Print & Sign Name

Title: ROBIN B. CREGER

Company: Vice President
District Manager TEICHERT CONSTRUCTION

Department Representative: Banky E. Curtis Date 5/2/03
Banky E. Curtis Regional Manager

DEPARTMENT OF FISH AND GAME

1701 NIMBUS ROAD, SUITE A
RANCHO CORDOVA, CALIFORNIA 95670
(916) 358-2900



November 11, 2003

Cynthia Herzog
ECorp Consulting
2260 Douglas Blvd.
Roseville, CA 95661

Subject: **Extend Streambed Alteration Agreement Number R2-2002-566 to December 31, 2004**

Dear Mrs. Herzog:

I have received your request to amend the agreement to extend streambed alteration agreement number **R2-2002-566** for your project on a unnamed tributary to Pleasant Grove Creek. Your request to extend the the agreement is hereby granted under the conditions indicated below:

1. All of the conditions listed in the original agreement are still binding. The dates of the agreement are now April 15 to October 15, 2004. Every reasonable attempt shall be made to complete operations prior to this date.

Please review this letter. If you have any questions, please call me. Please sign below indicating your acceptance of these terms and return the letter to the Department of Fish and Game, Region 2, 1701 Nimbus Road, Suite A, Rancho Cordova, CA 95670. The extension becomes effective upon the return of the signed amendment.

Sincerely,

Nicole Carion
Fish and Game Warden
SV-CS Region (2)

Operator

Title

Principal

Organization

AES

Date

11/15/03

